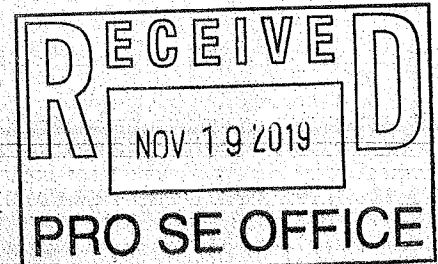


Revised 03/06 WDNV

UNITED STATES DISTRICT COURT
Southern DISTRICT OF NEW YORK



FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)

19 CV 10723

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. Torrey Brown (DIN # 18A3220) (NYSID # 00835835)
2. _____

-VS-

B. Full Name(s) of Defendant(s) NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.

1. County of Kings, City of New York
 2. District Attorney Eric Gonzalez
 3. INV FRIES (Rep. Agency → CORR/NYPD) (Shield # 528)
(Timothy Fries) (Command E72)
 4. CPT BANKS J (Rep. Agency → CORR)
 5. ADA Chelsea Toder
 6. Correction Officer Brown (Shield # 9586)
- * Individually and in their official capacities *

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: Torrey Brown (DIN # 18A3220)

Present Place of Confinement & Address: Elmira Correctional Facility
P.O. Box 500
Elmira, NY 14902

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: *To provide information about more defendants than there is room for here, use this format on another sheet of paper.*

Name of Defendant: County of Kings, City of New York
 (If applicable) Official Position of Defendant: ~~Corrections~~
 (If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity
 Address of Defendant: _____

Name of Defendant: Eric Gonzalez (District Attorney) (Kings County)
 (If applicable) Official Position of Defendant: _____
 (If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity
 Address of Defendant: _____

Name of Defendant: Timothy Fries (arresting officer) (Command 7572) (INV FRIES # 528) (CORR/NYPD)
 (If applicable) Official Position of Defendant: _____
 (If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity
 Address of Defendant: _____

** (Continued on additional sheet of paper) ** ** Individually and official capacities **

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
 Yes ☒ No ☐

If Yes, complete the next section. NOTE: *If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:
 Plaintiff(s): Torrey Brown (DIN # 18A3220)
 Defendant(s): (Same) (1) County of Kings, (2) Eric Gonzalez, (3) Timothy Fries, (4) Cpt Banks J (CORR), (5) ADA Gelsea Toder, (6) Correction Officer Brown
2. Court (if federal court, name the district; if state court, name the county): State court → Kings County
3. Docket or Index Number: N/A
4. Name of Judge to whom case was assigned: N/A

Defendant's Information (continued) (page 2)

Name of Defendant: CPT Banks J (CORR)

Name of Defendant: ADA Chelsea Toder (Kings County)

Name of Defendant: C.O. Brown (Shield # 9586) (CORR)

* individually and official capacities *

for all defendants

5. The approximate date the action was filed: (same) 11/8/19

6. What was the disposition of the case?

Is it still pending? Yes ☒ No ☐

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

☐ By court for failure to exhaust administrative remedies;

☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes ☐ No ☒

If Yes, complete the next section. NOTE: *If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes ☐ No ☐

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

* Note → Relief for ALL of the following damages: punitive damages, compensatory damages, personal liberty damages, injury to reputation damages, injury to family relation damages, constitutional damages, general damages, presumable damages, mental and emotional damages (only if applicable)

A. FIRST CLAIM: On (date of the incident) 10/13/17

defendant (give the **name and position held** of each defendant involved in this incident)

- ① INV FRIES (Timothy Fries) (#528) (CORR/NYPD) (Command → E72),
② CPT BANKS J (CORR), ③ Correction Officer Brown (Shield # 9586)

did the following to me (briefly state what each defendant named above did): INV FRIES falsely arrested me based on a investigation conducted by himself and approved by Supervisor CPT BANKS J, due to unsupported statements / evidence, ~~and~~ false statements made by Correction Officer Brown (Shield # 9586) also caused my arrest. So there was no probable cause to my arrest.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: False Arrest, 4th amendment violation (unlawful arrest) (Deprivation of Liberty) (Tort Law)

The relief I am seeking for this claim is (briefly state the relief sought): ~~compensatory~~ damages in the amount of \$1,112,000.00 (punitive damages, personal liberty damages, injury to reputation, injury to family relations, constitutional damages, general damages, presumable damages, compensatory damages)

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes ☒ No ☒ If yes, what was the result? N/A

Did you appeal that decision? Yes ☒ No ☒ If yes, what was the result? N/A

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: N/A

A. SECOND CLAIM: On (date of the incident) 10/13/17

defendant (give the **name and position held** of each defendant involved in this incident)

- ① County of Kings,
② District Attorney Eric Gonzalez, ③ ADA Chelsea Toder, ④ Timothy Fries
(INV/arresting officer)

did the following to me (briefly state what each defendant named above did): The County of Kings and District attorney Eric Gonzalez with the aide of my arrest by Timothy Fries commenced a criminal proceeding against me and this criminal proceeding continued through ADA Chelsea Toder. This proceeding terminated in my favor on 9/10/19, and there ~~were~~ not any probable cause for my arrest or the proceedings. At arraignment I was made out to be a menace as well as in Grand Jury, so the proceeding was instituted with malice, as this arrest and prosecution was due to false and unsubstantiated statements.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Malicious Prosecution under Federal and State Law (4th amendment violation) (Deprivation of Liberty) (Tort Law)

The relief I am seeking for this claim is (briefly state the relief sought): ~~compensatory~~ damages in the amount of \$1,112,000.00

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? _____ Yes ☒ No ☐ If yes, what was the result? _____

Did you appeal that decision? _____ Yes ☒ No ☐ If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: N/A

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

- ① False arrest → damages ~~compensatory~~ of \$1,112,000.00 (unlawful arrest)
- ② Malicious Prosecution → damages ~~compensatory~~ of \$1,112,000.00
- ③ False Imprisonment → damages ~~compensatory~~ of \$2,224,000.00 (unlawful imprisonment)
- ~~AK~~ Total damages ~~compensatory~~ of \$4,448,000.00

Do you want a jury trial? Yes ☒ No ☐

Claims (continued)

A. Third Claim: On (date of the incident) 10/13/17

defendant (give the name and position held of each defendant involved in this incident)

- ① County of Kings, ② District Attorney Eric Gonzalez, ③ ADA Chelsea Toder,
④ Timothy Fries (INV/arresting officer)

did the following to me (briefly state what each defendant named above did):

Due to the ^{unlawful} arrest made by INV Timothy Fries #528 & the criminal proceedings against me made by Kings County through assistance of District Attorney Eric Gonzalez and ADA Chelsea Toder, I was detained on Riker's Island for multiple counts of criminal charges, Top charge being Attempted Murder in the Second Degree. The defendants intended to confine me by requesting bail to be set, I was conscious of the confinement, I did not consent to the confinement, and due to the lack of probable cause and false statements to ^{unsubstantiated} make my arrest, the confinement was not otherwise privileged.

The constitutional basis for this claim under 42 U.S.C. § 1983 is:

False Imprisonment (unlawful imprisonment) (4th amendment violation) (Tort Law) (Deprivation of Liberty)

The relief I am seeking for this claim is (briefly state the relief sought):

~~Compensatory~~ damages in the amount of \$2,224,000.00

Exhaustion of your Administrative Remedies for this claim

* Not Applicable *

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 8th 2019
(date)

NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.

Lawrence (Torrey Braun # 18A3220)

Signature(s) of Plaintiff(s)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF CHEMUNG) ss.:

I, Terney Braun, being duly sworn, deposes and says:

That on the below indicated date of notarization, I served the following papers: 42 U.S.C. § 1983 summons and complaint ~~(1 original and 3 copies)~~
(1 original and 3 copies)

by mailing same in a first class postpaid sealed wrapper to be delivered to the person(s) listed below via the United States Postal service by placing same in an official depository under the exclusive care and control of the Elmira Correctional Facility:

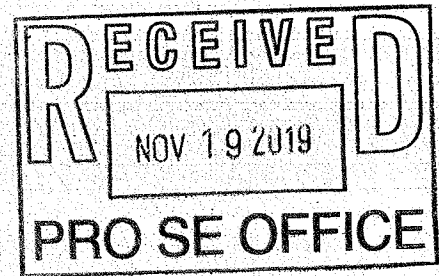
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 230
New York, NY 10007

Respectfully submitted,

Terney Braun

Sworn to before me this 8
day of November, 2019.

Steven D Lee
NOTARY PUBLIC, STATE OF NEW YORK
CHEMUNG COUNTY
LIC. #01LE6231045
COMMISSION EXPIRES 11/15/22



J. Michael McMahon
Clerk of the Court
U.S. District Court for the
Southern District of New York
500 Pearl St., Room 230
New York, NY 1007

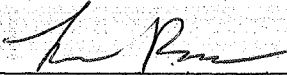
Re: 42 U.S.C. §1983 Summons and Complaint

Dear Clerk of the Court:

Please find enclosed one (1) original and three (3) copies of my Pro Se 42 U.S.C. §1983 Summons and Complaint and all supporting papers and affidavits.

If I have failed to serve any other paper work or there is any further information you may need from me in order to process my motion, please feel free to contact me at the above listed address. I would like to thank you for your time and consideration in this matter and I look forward to hearing from your office with a favorable decision from the Court.

Respectfully submitted,


Torrey Brown, # 18A3220
Claimant, "Pro-Se"
Elmira Correctional Facility
P.O. Box 500
Elmira, NY 14902

cc: File

Defendant's Information (continued) (page 2)

Name of Defendant: CPT Banks J (CORR)

Name of Defendant: ADA Chelsea Toder (Kings County)

Name of Defendant: C.O. Brown (Shield# 9586) (CORR)

* Individually and official capacities. *
for all defendants

5. The approximate date the action was filed: (same) 11/8/19

6. What was the disposition of the case?

Is it still pending? Yes ☒ No ☐

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

☐ By court for failure to exhaust administrative remedies;

☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes ☐ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes ☐ No ☐

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to **42 U.S.C. § 1997e(a)**, "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

* Note → Relief for All of my claim for All of the following damages: punitive damages, compensatory damages, personal liberty damages, injury to reputation damages, injury to family damages, Constitutional damages, general damages, presumable damages, mental and emotional damages (only if applicable) *

A. FIRST CLAIM: On (date of the incident) 10/13/17,
defendant (give the **name and position held** of each defendant involved in this incident)

① INV FRIES (Timothy Fries) (#528) (CORR/NYPD) (Command → E72);
② CPT BANKS J (CORR), ③ Correction Officer Brown (Shield # 9586)

did the following to me (briefly state what each defendant named above did): INV FRIES falsely arrested
me based on a investigation conducted by himself and approved by Supervisor
CPT BANKS J, due to unsupported statements / evidence, ~~and~~ false statements
~~made~~ made by Correction Officer Brown (Shield # 9586) also caused my arrest.
So there was no probable cause to my arrest.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: False Arrest, 4th amendment
violation (unlawful arrest) (Deprivation of Liberty) (Test Law)

The relief I am seeking for this claim is (briefly state the relief sought): ~~compensatory~~ damages in
the amount of \$1,112,000.00

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes ☒ No ☐ If yes, what was the result? N/A

Did you appeal that decision? Yes ☒ No ☐ If yes, what was the result? N/A

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: N/A

A. SECOND CLAIM: On (date of the incident) 10/13/17,

defendant (give the **name and position held** of each defendant involved in this incident) ① County of Kings,
② District Attorney Eric Gonzalez, ③ ADA Chelsea Toder, ④ Timothy Fries
(INV arresting officer)

did the following to me (briefly state what each defendant named above did): The County of Kings and District Attorney Eric Gonzalez with the aide of my arrest by Timothy Fries commenced a criminal proceeding against me and this criminal proceeding continued through ADA Chelsea Toder. This proceeding terminated in my favor on 9/10/19, and there ~~was~~ not any probable cause for my arrest or the proceeding. At arraignment I was made out to be a menace as well as in Grand Jury, so the proceeding was instituted with malice, as this arrest and prosecution was due to false and unsubstantiated statements.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Malicious Prosecution under Federal and State Law (4th amendment violation) (Deprivation of Liberty) (Tort Law)

The relief I am seeking for this claim is (briefly state the relief sought): Compensatory damages in the amount of \$1,112,000.00

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes ☒ No If yes, what was the result? _____

Did you appeal that decision? Yes ☒ No If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: N/A

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

- ① False arrest → damages ~~of \$1,112,000.00~~ of \$1,112,000.00 (unlawful arrest)
- ② Malicious Prosecution → damages ~~of \$1,112,000.00~~ of \$1,112,000.00
- ③ False Imprisonment → damages ~~of \$2,224,000.00~~ of \$2,224,000.00 (unlawful imprisonment)
- * Total damages ~~of \$4,448,000.00~~ of \$4,448,000.00 *

Do you want a jury trial? Yes ☒ No _____

Claims (continued)

A. Third Claim: On (date of the incident) 10/13/17

defendant (give the name and position held of each defendant involved in this incident)

- ① County of Kings, ② District Attorney Eric Gonzalez, ③ ADA Chelsea Toder,
④ Timothy Fries (INV/arresting officer)

did the following to me (briefly state what each defendant named above did):

Due to the ^{unlawful} arrest made by INV Timothy Fries #528 & the criminal proceedings against me made by Kings County through assistance of District Attorney Eric Gonzalez and ADA Chelsea Toder, I was detained on Riker's Island for multiple counts of criminal charges, Top charge being Attempted Murder in the Second Degree. The defendants intended to confine me by requesting bail to be set, I was conscious of the confinement, I did not consent to the confinement, and due to the lack of probable cause and false statements to ~~make~~ ^{was substantiated} make my arrest, the confinement was not otherwise privileged.

The constitutional basis for this claim under 42 U.S.C. § 1983 is:

False Imprisonment (unlawful imprisonment) (4th amendment violation) (Tort Law) (Deprivation of Liberty)

The relief I am seeking for this claim is (briefly state the relief sought):

~~Compensatory~~ damages in the amount of \$2,224,000.00

Exhaustion of your Administrative Remedies for this claim

* Not Applicable *

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 8th 2019
(date)

NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.

Torrey Brown #18A3220

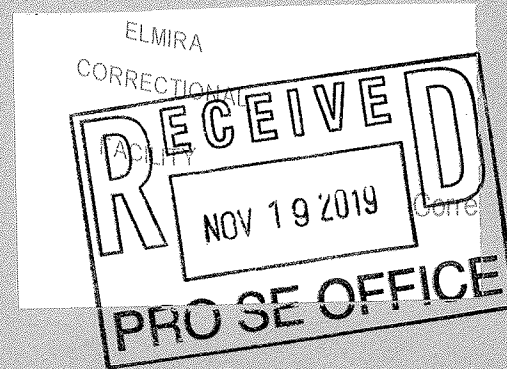
Signature(s) of Plaintiff(s)

ELMIRA CORRECTIONAL & RECEPTION CENTER

P.O. BOX 500

ELMIRA, NEW YORK 14902-0500

Torrey Brown #18A3220



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SDNY
ELMIRA



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ctional Facility

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11/12/2019
US POSTAGE \$007.35⁰⁰

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clerk of the court
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 230
New York, NY 10007

